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HOUSE BILL 825

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO ENERGY EFFICIENCY; AMENDING THE ENERGY EFFICIENCY AND RENEWABLE ENERGY BONDING ACT TO PROVIDE FOR ASSESSMENTS, CREATE A REVOLVING FUND, INCREASE THE DURATION OF INSTALLATION CONTRACTS AND REMOVE THE REQUIREMENT FOR A STATE PLAN; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-21D-1 NMSA 1978 (being Laws 2005, Chapter 176, Section 1) is amended to read:

"6-21D-1. SHORT TITLE.--~~[Sections 1 through 10 of this act]~~ Chapter 6, Article 21D NMSA 1978 may be cited as the "Energy Efficiency and Renewable Energy Bonding Act"."

Section 2. Section 6-21D-3 NMSA 1978 (being Laws 2005, Chapter 176, Section 3) is amended to read:

"6-21D-3. ~~[STATE PLAN]~~ BUILDING ASSESSMENTS FOR ENERGY

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1 EFFICIENCY MEASURES.--

2 A. ~~[The department shall develop a state plan for~~
3 ~~the installation, no later than the end of fiscal year 2010, of~~
4 ~~energy efficiency measures in state buildings and school~~
5 ~~district buildings. The plan shall include the maximum amount~~
6 ~~of on-site renewable energy measures possible while retaining~~
7 ~~the overall revenue-neutral status of the plan, such that the~~
8 ~~total cost of the plan is covered entirely by the combined~~
9 ~~energy cost savings of both the renewable energy and other~~
10 ~~energy efficiency measures undertaken.] Upon the request of a~~
11 ~~state agency or a school district, the department may perform~~
12 ~~an energy efficiency assessment of a state or school district~~
13 ~~building to identify the energy efficiency measures that can be~~
14 ~~installed and operated at a total price that is less than the~~
15 ~~energy cost savings realized.~~ In addition, the [plan]
16 assessment shall include a schedule for funding and installing
17 the energy efficiency measures [~~that gives priority to those~~
18 ~~projects]~~ that will realize significant energy cost savings in
19 the shortest time frame. The department shall develop the
20 [plan] assessment of:

21 (1) [~~for energy efficiency measures in]~~ state
22 buildings in conjunction with the property control division of
23 the general services department, the staff architect of the
24 division, the capitol buildings planning commission and other
25 state agencies with control and management over buildings; and

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1 (2) ~~[for energy efficiency measures in]~~ school
2 district buildings, in conjunction with the public education
3 department, the public school capital outlay council and the
4 public school facilities authority.

5 B. State agencies and school districts shall
6 cooperate with the department in the ~~[development and the~~
7 ~~implementation of the plan]~~ assessment performed pursuant to
8 Subsection A of this section."

9 Section 3. Section 6-21D-4 NMSA 1978 (being Laws 2005,
10 Chapter 176, Section 4) is amended to read:

11 "6-21D-4. CONTRACTS FOR THE INSTALLATION OF ENERGY
12 EFFICIENCY MEASURES.--~~[Pursuant to the Procurement Code, the~~
13 ~~department shall]~~ Pursuant to an energy efficiency assessment
14 performed under Section 6-21D-3 NMSA 1978 and with the approval
15 of the department, a state agency or school district may
16 install or enter into contracts for the installation of energy
17 efficiency measures ~~[at one or more of the state buildings and~~
18 ~~school district buildings identified in the state plan]~~ on the
19 building identified in the assessment. An installation
20 contract shall be entered into pursuant to the Procurement
21 Code, except that the contract may be entered into for a term
22 of up to ten years. The installation or contracts shall
23 address provisions concerning payment schedules, monitoring,
24 inspecting, measuring and warranties as are necessary to ensure
25 that the energy efficiency measures will be installed and the

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1 energy cost savings realized in the manner most beneficial to
2 the state; provided that bonds shall not be issued pursuant to
3 the Energy Efficiency and Renewable Energy Bonding Act without
4 a finding by the department that the energy cost savings
5 realized from the energy efficiency measures will be greater
6 than the debt service due on the bonds issued to finance the
7 energy efficiency measures."

8 Section 4. Section 6-21D-7 NMSA 1978 (being Laws 2005,
9 Chapter 176, Section 7) is amended to read:

10 "6-21D-7. ENERGY EFFICIENCY BONDS AUTHORIZED--
11 CONDITIONS--PROCEDURE.--

12 A. The authority is authorized to issue and sell
13 from time to time revenue bonds, known as "energy efficiency
14 bonds", in an amount outstanding at any one time not to exceed
15 twenty million dollars (\$20,000,000), payable solely from the
16 fund, in compliance with the Energy Efficiency and Renewable
17 Energy Bonding Act and the New Mexico Finance Authority Act for
18 the purpose of installing energy efficiency measures when the
19 department has certified the need for the bonds and the
20 conditions of Subsection C of this section have been satisfied.

21 B. The net proceeds from the bonds are appropriated
22 to the ~~[department for the purpose of making payments]~~
23 authority for the purpose of making distributions to one or
24 more state agencies or school districts that, pursuant to an
25 energy efficiency assessment by the department, have committed

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1 to install energy efficiency measures or entered into contracts
2 for the installation of the measures. Upon receipt of a
3 distribution, the state agency or school district shall deposit
4 into the energy efficiency assessment revolving fund the cost
5 incurred by the department to make the energy efficiency
6 assessment on the building and shall use the remainder for the
7 installation of energy efficiency measures pursuant to the
8 Energy Efficiency and Renewable Energy Bonding Act, provided
9 that, after the installation of the energy efficiency measures,
10 any unexpended balance of the bond proceeds shall revert to the
11 energy efficiency and renewable energy bonding fund.

12 C. Bonds shall not be issued pursuant to this
13 section unless:

14 (1) ~~[the department]~~ a state agency or school
15 district has committed to install or has entered into one or
16 more contracts pursuant to Section ~~[4 of the Energy Efficiency~~
17 ~~and Renewable Energy Bonding Act]~~ 6-21D-4 NMSA 1978 for the
18 installation of energy efficiency measures and the department
19 has certified that the resulting energy cost savings will be
20 realized within a reasonable time;

21 (2) considering the timeliness and amount of
22 energy cost savings estimated to be realized from the energy
23 efficiency measures, the department has certified the
24 approximate date when the energy cost savings are most likely
25 to equal or exceed the debt service due on the bonds to be

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1 issued to fund the energy efficiency measures;

2 (3) the life of energy efficiency measures
3 meets or exceeds the life of the bonds allocable to those
4 energy efficiency measures as determined by the department and
5 the authority; and

6 (4) based on the department's certification,
7 the debt service on the bonds has been structured by the
8 authority to preclude the annual debt service payments due
9 until the date that the cost savings equal or exceed the debt
10 service.

11 D. Each series of bonds shall be issued pursuant to
12 the provisions of the New Mexico Finance Authority Act, except
13 as otherwise provided in the Energy Efficiency and Renewable
14 Energy Bonding Act."

15 Section 5. Section 6-21D-10 NMSA 1978 (being Laws 2005,
16 Chapter 176, Section 10) is amended to read:

17 "6-21D-10. ANNUAL REPORT REQUIRED.--No later than
18 December 1 of each year, the department shall report to the
19 legislature and to the governor on its activities during the
20 previous fiscal year in administering the provisions of the
21 Energy Efficiency and Renewable Energy Bonding Act. The report
22 shall include:

23 A. details concerning all payments made for the
24 installation of energy efficiency measures;

25 B. details concerning all expenditures made in

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1 administering the provisions of the Energy Efficiency and
2 Renewable Energy Bonding Act;

3 C. a list of all buildings on which an energy
4 efficiency assessment has been performed and the buildings in
5 which energy efficiency measures were installed;

6 D. details showing how the energy cost savings were
7 calculated;

8 E. an analysis of whether the program has been
9 cost-effective;

10 ~~[F. a report showing progress made in complying~~
11 ~~with the state plan developed pursuant to Section 3 of the~~
12 ~~Energy Efficiency and Renewable Energy Bonding Act and, if in~~
13 ~~noncompliance, a plan for achieving compliance in the future;~~

14 ~~G.]~~ F. a summary of activities being conducted
15 during the present fiscal year; and

16 ~~[H.]~~ G. any additional information that will assist
17 the legislature and the governor in evaluating the program."

18 Section 6. A new section of the Energy Efficiency and
19 Renewable Energy Bonding Act is enacted to read:

20 "[NEW MATERIAL] ENERGY EFFICIENCY ASSESSMENT REVOLVING
21 FUND.--The "energy efficiency assessment revolving fund" is
22 created in the state treasury. The fund shall consist of
23 appropriations, gifts, grants, donations and bequests made to
24 the fund and reimbursements of costs incurred by the department
25 in performing energy efficiency assessments pursuant to the

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1 Energy Efficiency and Renewable Energy Bonding Act. Income
2 from the fund shall be credited to the fund, and money in the
3 fund shall not revert or be transferred to any other fund at
4 the end of a fiscal year. Money in the fund is appropriated to
5 the department for the purposes of performing energy efficiency
6 assessments. Expenditures from the fund shall be made on
7 warrant of the secretary of finance and administration pursuant
8 to vouchers signed by the secretary of energy, minerals and
9 natural resources."

10 Section 7. APPROPRIATION--ENERGY EFFICIENCY ASSESSMENT
11 REVOLVING FUND.--Five hundred thousand dollars (\$500,000) is
12 appropriated from the general fund to the energy efficiency
13 assessment revolving fund for expenditure in fiscal year 2007
14 and subsequent fiscal years for the purpose of performing
15 energy efficiency assessments pursuant to the Energy Efficiency
16 and Renewable Energy Bonding Act. Any unexpended or
17 unencumbered balance remaining at the end of a fiscal year
18 shall not revert to the general fund.